



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael G. Mikurak

Serial No.: 09/444,774

Filing Date: November 22, 1999

Title: ENHANCED VISIBILITY DURING
INSTALLATION MANAGEMENT
IN A NETWORK-BASED SUPPLY
CHAIN ENVIRONMENT

Group Art Unit: 3622

Examiner: Arthur D. Duran

Docket No: 60021-334801

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Mailing/Transmittal

I hereby certify that this correspondence is being facsimile transmitted to the USPTO (Fax. No. 571.273.8300) or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: MS Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Janet Byrne 11-14-06
Janet Byrne Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT'S AMENDED APPEAL BRIEF¹

Dear Sir:

In response to the Office communications dated November 17, 2005 and February 17, 2005, Appellant appeals the rejections of Examiner Arthur D. Duran.

¹ In response to the Notification of Non-Compliant Appeal Brief received September 25, 2006, Appellant submits this amended appeal brief to correct the unintentional deficiencies present in the version filed July 18, 2005.

TABLE OF CONTENTS

(1) REAL PARTY IN INTEREST	3
(2) RELATED APPEALS AND INTERFERENCES	4
(3) STATUS OF CLAIMS	5
(4) STATUS OF AMENDMENTS	6
(5) SUMMARY OF CLAIMED SUBJECT MATTER	7
(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	8
(7) ARGUMENT	9
A. PROSECUTION BACKGROUND	9
B. REJECTION OF INDEPENDENT CLAIMS 70, 87, AND 104 PURSUANT TO 35 U.S.C. § 103	11
1. The References Fail To Teach Or Suggest All Limitations Of Appellant Claims.	13
(i) The references fail to teach or suggest using and evaluating acquired information to match offerings to service requirements.	13
(ii) The references fail to teach or suggest management of installations.	16
(iii) The references fail to teach or suggest use of a collaborative planning tool.	17
2. There Is No Suggestion Or Motivation To Combine Webber and Whipple.	18
C. REJECTION OF DEPENDENT CLAIMS 73, 90, AND 107 PURSUANT TO 35 U.S.C. § 103	19
(8) CONCLUSION	21
(A) CLAIMS APPENDIX	22
(B) EVIDENCE APPENDIX	29
(C) RELATED PROCEEDINGS APPENDIX	30

(1) REAL PARTY IN INTEREST

The present application was originally assigned to Andersen Consulting LLP, which subsequently changed its name to Accenture LLP.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the present case.

(3) STATUS OF CLAIMS

Claims 70, 73-76, 82-87, 90-93, 99-104, 107-109, and 112-115 are pending and are herein appealed.

Claims 1-69, 71-72, 77-81, 88-89, 94-98, 105-106, and 110-111 have been cancelled.

(4) STATUS OF AMENDMENTS

Subsequent to the final rejection, an amendment was filed on May 4, 2005 in which claims 77-81, 94-98, and 110-111 were cancelled.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The present invention generally provides for a network-based supply chain framework environment managed via a framework manager that facilitates use of the supply chain framework. Specifically, the present invention provides for evaluation and matching of service provider and manufacturer services and offerings, respectively. The various claims are directed toward a method, a computer program on a computer readable medium, and a system, wherein the general improvements over the prior art include, *inter alia*, a framework manager of the supply-chain framework facilitating the exchange of information and combination of service provider services and manufacturer offerings; facilitation of project planning; and enhancing visibility with a user's client during installation management.

More specifically, Appellant's claims 70, 87, and 104 recite a method, system, and computer program on a computer readable medium for a framework manager to provide installation management in a network-based supply chain framework, between at least two independent business entities such as service providers, vendors, resellers, manufacturers and the like, including (a) receiving information via the network including information relating to a service provided by a service provider from the service provider (*see* Specification at p. 33, ll. 17-20); (b) receiving information via the network including information relating to manufacturer offerings by a manufacturer from the manufacturer (*see* Specification at p. 33, ll. 20-22); (c) using and evaluating the information, considering factors such as cost and service provider requirements, to match a manufacturer offering to a service provider service (*see* Specification at p. 33, ll. 22-24); and using the collected information to manage installations through use of a collaborative planning tool (*see* Specification at p. 33, ll. 26-31).

Claims 73, 90, and 107 depend on claims 70, 87, and 104, and recite the method, system, and computer program wherein the framework manager uses the network to facilitate milestone-based project planning between the matched service provider and the manufacturer (*see* Specification at p. 34, ll. 1-2).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner rejected independent claims 70, 87 and 104, under 35 U.S.C. § 103(a) as being unpatentable over *Webber*, U.S. Patent No. 6,167,378, in view of *Whipple et al.*, U.S. Patent No. 6,289,385 B1. In making this multiple-reference obviousness rejection, has the Examiner established a *prima facie* case for obviousness?

Additionally, the Examiner rejected dependent claims 73, 90 and 107 under 35 U.S.C. § 103(a) as being unpatentable over *Webber*, U.S. Patent No. 6,167,378, in view of *Whipple et al.*, U.S. Patent No. 6,289,385 B1. In making this multiple-reference obviousness rejection, has the Examiner established a *prima facie* case for obviousness?

(7) ARGUMENT

A. PROSECUTION BACKGROUND

Appellant filed the original application on November 22, 1999. The first substantive Office action addressing the merits of patentability was mailed September 16, 2002, wherein Examiner Duran rejected pending claims 1-18 pursuant to 35 U.S.C. §§ 102(e) and 103(a).

On March 17, 2003, Appellant responded to the Office action, amending the specification to correct the title and amending the claims by canceling claims 1-18 and adding claims 19-69. Appellant additionally presented detailed arguments regarding the differences between the invention and the cited references.

On April 18, 2003, Examiner Duran issued an Office action made final rejecting claims 31-33, 35, 48-50, 52, 65-67, and 69 pursuant to 35 U.S.C. § 102(e) on the same prior art; and claims 34, 51, and 68 were rejected pursuant to 35 U.S.C. § 103(a), also on the same prior art. Examiner Duran also unilaterally withdrew from consideration claims 19-30, 36-47, and 53-64, alleging the claims were directed to a non-elected invention. In addition, Examiner Duran rejected claims 31, 48, and 65 pursuant to 35 U.S.C. § 112 as improperly depending on claims 19, 37, and 53, which were unilaterally withdrawn by Examiner Duran.

On July 18, 2003, Appellant filed a Request for Continued Examination and amended the claims by canceling claims 19-69 and adding claims 70-86. Appellant additionally presented detailed arguments regarding the differences between the invention and the cited references.

On August 27, 2003, Examiner Duran issued an Office action rejecting claims 70-84, and 86 pursuant to 35 U.S.C. § 101; rejected claims 70-83, 84, and 86 pursuant to 35 U.S.C. § 103(a) over new prior art; and rejected claim 85 pursuant to 35 U.S.C. § 103(a) over previously cited prior art.

On November 26, 2003, Appellant filed an Amendment and Response and amended the claims. Appellant additionally presented detailed arguments regarding the differences between the invention and the cited references.

On January 2, 2004, Examiner Duran issued an Office action made final rejecting claims 70-86 pursuant to 35 U.S.C. § 103(a) on new prior art.

On March 2, 2004, Appellant filed an Amendment and Response After Final, again amending the claims to overcome the rejection. Appellant additionally presented detailed arguments regarding the differences between the invention and the cited references.

On March 17, 2004, Examiner Duran issued an Advisory Action, merely asserting that Appellant's Amendment "raise[d] new issues that would require further consideration and/or search." In addition, the submitted amendments to the claims were not entered for purposes of appeal. Examiner Duran included a note explaining Appellant's new proposed amendment of the words "and evaluate" to the independent claim necessitated further consideration and/or search.

On April 19, 2004, Appellant filed a second Request for Continued Examination and amended the claims, submitting the amendment previously submitted in the Amendment and Response After Final, dated March 2, 2004, and also adding new claims 87-115. Appellant additionally presented detailed arguments regarding the differences between the invention and the cited references.

On July 12, 2004, Examiner Duran issued an Office action made final, rejecting claims 70-115 pursuant to 35 U.S.C. § 103(a) on previously cited prior art.

On September 15, 2004, a telephonic interview was held between Appellant's counsel and Supervisory Patent Examiner Eric W. Stamber. Appellant contested the finality of the Office action issued July 12, 2004 based upon Examiner Duran's Advisory Action issued March 2, 2004. Supervisory Patent Examiner Stamber agreed that finality was inappropriate, stated the existing Office action would be treated as nonfinal, but the response period would still commence on July 12, 2004, the original mailing date of the Office action.

On October 12, 2004, Appellant filed an Amendment and Response, amending the specification and amending the claims. Appellant again additionally presented detailed arguments regarding the differences between the invention and the cited references.

On November 17, 2004, Examiner Duran issued an Office action made final rejecting the claims pursuant to 35 U.S.C. § 103(a) on the same prior art references.

On January 17, 2005, Appellant filed an Amendment and Response, presenting detailed arguments delineating the claim limitations that were not taught or suggested by the cited references.

On February 17, 2005, Examiner Duran issued an Advisory Action sustaining the rejection pursuant to 35 U.S.C. § 103(a) as set forth in the Office action made final dated November 17, 2004.

In response, Appellant filed a Notice of Appeal, which was received by the Office on March 21, 2005. Each of Examiner Duran's rejections will be addressed below.²

On May 4, 2005, in preparing and refining the claims for appeal, Appellant filed an Amendment canceling claims 77-81, 94-98, and 110-111.

B. REJECTION OF INDEPENDENT CLAIMS 70, 87, AND 104 PURSUANT TO 35 U.S.C. § 103

Independent claims 70, 87, and 104 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Webber, U.S. Patent No. 6,167,378 (hereinafter "*Webber*"), in view of Whipple, U.S. Patent No. 6,289,385 (hereinafter "*Whipple*").³ Neither, *Webber* nor *Whipple*, alone or in combination, teach or suggest all limitations of the claims as presented, nor include any motivation or suggestion as to their combination. See MPEP § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991)). These rejections based upon *Webber* and

² Over the course of this application's prosecution, it has not been clear from the issued Office actions whether the Examiner is considering Appellant's claims as submitted. For example, the Examiner's responses has addressed claim language that is no longer part of the claims. Compare, e.g., Office Action dated July 12, 2004, at 2-3 with Amendment and Response dated April 19, 2004, at 2 (new listing of claims different from what is apparently addressed in the subsequent Office Action). Such practice has required Appellant to speculate and present alternate arguments because of this lack of clarity in the Examiner's responses. See, e.g., Amendment and Response dated April 19, 2004 at p. 12, ¶2; Amendment and Response dated October 12, 2004 at p. 11, ¶ 3. Even now, the outstanding Office Action made final appears to not address the specific claim language. Compare Office Action dated November 17, 2004 at 2-3 with Amendment and Response dated October 12, 2004 at p. 2.

³ The Examiner has further rejected certain dependent claims as unpatentable pursuant to 35 U.S.C. § 103(a) over *Webber* in view of *Whipple* and further in view of Abgrall, U.S. Patent No. 6,373,498 (claims 82-84, 86, 99-101, 103, and 112-115), and in one instance further in view of Gerace, 5,991,735 (claims 85 and 102). Appellant has grouped claims 70, 74-87, 91-104, and 108-115 together and address only the rejections of the independent claims based on *Webber* and *Whipple*; claims 73, 90, and 107, which are grouped and stand independently and have been rejected as obvious over *Webber* in view of *Whipple*, and are addressed *infra*.

Whipple are unsupported by the art, and a *prima facie* case of obviousness has not been established. Appellant respectfully requests that Examiner's rejections pursuant to 35 U.S.C. § 103(a) be withdrawn and a Notice of Allowance be issued.

The present invention generally provides for a framework manager to provide installation management in a network-based supply chain framework between at least two independent business entities such as service providers, vendors, resellers, manufacturers and the like, comprising:

causing a framework manager using a network to:

- (a) receive information via the network including information relating to a service provided by a service provider from the service provider;
- (b) receive information via the network including information relating to manufacturer offerings by a manufacturer from a manufacturer;
- (c) use and evaluate the information provided by the service provider via the network and the manufacturer to match the service to the offerings, evaluating factors that include cost and service provider requirements; and
- (d) use the service and manufacturer offerings information to manage installations through the use of a collaborative planning tool which facilitates the transfer of the information received from the service provider and the information received from the manufacturer.

See Appendix, claims 70 (method), 87 (system), and 104 (computer program embodied on a computer-readable medium.)

Specifically, the distinct limitations that distinguish the invention as claimed from the prior art include:

- (i) using and evaluating information provided by the service providers and manufacturers to match service requirements to offerings;
- (ii) using the acquired information to manage installations through the use of a collaborative planning tool which facilitates the transfer of the information received from the service provider and the information received from the manufacturer; and
- (iii) using the information to manage installations.

Each of these limitations, and how they are not taught or suggested in the prior art, are discussed *infra*.

1. The References Fail To Teach Or Suggest All Limitations Of Appellant's Claims.

To establish a *prima facie* case of obviousness, an examiner must demonstrate that all claim limitations are taught or suggested by the prior art. *See* MPEP § 2143.03. "All words in a claim must be considered in judging the patentability of [the claim] against the prior art." *Id.* (citing *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). In the present application's prosecution, the Examiner has taken inexcusable liberties interpreting the cited references which, when critically evaluated, fail to teach or suggest *all* limitations of the claims. Because the references fail to teach or suggest all claim limitations, Appellant respectfully requests the rejections be reversed.

- (i) *The references fail to teach or suggest using and evaluating acquired information to match offerings to service requirements.*

The present invention recites, *inter alia*, "use and evaluate the information provided by the service provider via the network and the manufacturer to match the service to the offerings, evaluating factors that include cost and service provider requirements." *See* claim 70(c); claim 87(c); claim 104(c). The cited references, either alone or in combination, fail to teach or suggest at least these features of the claimed invention.

In response to Appellant's final amendment before this appeal, the Examiner unpersuasively argued that *Webber* "discloses using and evaluating the information provided by the service provider via the network and the manufacturer to match the service to the offerings." Office Action dated Nov. 17, 2004, at 5 (citing *Webber* at col. 20, ll. 15-21 and 29-42). However, a plain reading of *Webber*, and review of the specific citations reveals the citations do not support the Examiner's position, and *a priori*, *Webber* is inapplicable prior art.

Webber discloses a method that automates a supply chain for goods between manufacturers, retailers, and other intermediary parties. *See Webber* at Fig. 4 (detailing multiple parties operating to supply goods to seller and ultimately consumer); col. 3, ll. 37-41 (describing

invention as automating supply chain of a product); col. 6, ll. 13-17 (same).⁴ *Webber* endeavors to integrate contracts among the separate entities participating in the supply chain such that fulfillment of those contracts proceeds automatically. *See id.* at Abstract, ll. 9-12; col. 6, ll. 47-51 (describing automated activity upon the occurrence of specified events). *Webber* implicitly limits its application to the facilitation of requirements contracts whose performance is not completed upon one iteration. *See id.* at col. 3, ll. 50-51. (“Another object of the invention is that the repetition of routine transactions is fully automated.”); col. 12, ll. 43-67 (citing example of winery in which repetitive contracts would be used for repeating transactions). *Webber*, however, fails to disclose any evaluation of the information that would be received by two separate independent parties in an effort to match service provider needs and manufacturing offerings.⁵ In fact, *Webber* teaches the opposite; evaluation and matching occur through user submission and ratification of contracts available, necessarily a non-automated user-involved function. *See Webber* at col. 8, ll. 25-33. Once ratified, the contracts are stored in the database and activated when pre-defined contractual events occur. *See Webber* at col. 9, ll. 12-14. Hence, at the beginning of the process disclosed by *Webber*, before *Webber*’s automated supply chain

⁴ *Webber* provides the example of a winery using the invention described to disseminate wine to the consumer.

⁵ The Examiner will likely rely on the language of *Webber* at col. 20, ll. 15-21 and 29-43 to argue that *Webber* teaches evaluation of data received to match service provider needs with manufacturer requirements. *See* Office Action dated November 17, 2004, at 5, ¶ 1. However, these citations fail to teach the evaluation of information received because doing so conflicts with the central purpose of *Webber* which is to automate contracts. *Webber* explicitly discloses linking ratified contracts that may then function without further human interaction. *See Webber* at col. 6, ll. 28-51 (describing intended operation of ratified contracts without human involvement). The language at col. 20 in dispute can only be harmonized with the remaining disclosure of *Webber* such that a buyer may post a request based on a pre-ratified contract, which then may be fulfilled by a seller who has those goods for shipment, also completed with a pre-ratified contract. When those goods are made available, the system automatically initiates the process of *Webber*, not based on some earlier evaluation, but on terms previously agreed between the parties. Unlike *Webber*, the present invention evaluates server provider requirements and manufacture offerings without pre-selection performed by the entities. Additionally, the language at column 20, lines 29-42 fails to disclose or teach evaluation of information; in *Webber* the system searches a “master list” of suppliers if the requested good is entirely unavailable. However, no *evaluation* of information is disclosed. All that occurs is making contact with an alternate supplier who may have the requested item.

invention operates, the users must evaluate the contracts available and select the appropriate supplier. The present invention, operates at this earlier point, performing this evaluation of offerings before ratification. *Webber* fails to teach or disclose this non-obvious feature. This alone renders these claims patentable.⁶

⁶ Further comment regarding the teaching of *Whipple* is unnecessary because the Examiner does not rely on *Whipple* in combination with *Webber* to teach or suggest this limitation.

(ii) *The references fail to teach or suggest management of installations.*

The present invention further recites, *inter alia*, “use the service and manufacturer offerings information to manage installations.” See claim 70(d); claim 87(d); claim 104(d). Again, the cited references, either alone or in combination, fail to teach or suggest at least these features of the claimed invention.

With regard to the “installation” limitation, the Examiner argues that *Webber* discloses installations, making obvious Appellant’s claimed invention which claims the management of installations. See Office Action dated November 17, 2004, at p. 3. However, the sole citation relied upon by the Examiner, *Webber* at column 16, lines 20-25, is taken entirely out of context. At column 16, *Webber* discloses the underlying installation of software used to operate the *Webber* invention. See *Webber* at col. 16, ll. 20-24 (“Contracts are drafted on the CAP. This is done with CAP templates or toolkits. *The templates can be distributed to users as a separate toolkit to be installed on their own computers.*”) (emphasis added). This reference to installation constitutes only a passing comment relating to establishing the system disclosed in *Webber*. To argue that *Webber* discloses installations is disingenuous and misleading at best, as the word “install” is extracted from its surrounding context. Clearly, *Webber* has no focus on the “installation” of software as a use for the disclosed invention, as such installation is markedly different from the goals of the described invention (i.e., streamlining of requirements contracts). Moreover, *Webber* makes continuing reference to commodity or goods contracting, thus illustrating its failure to suggest any contemplated use for installation management. More generally, *Webber* is focused on dealing with recurring events, such as goods or commodity contracts. Due to this focus, application of *Webber* is useless in the installation context because it is not a repeating event.

Without reference to installations as recited in the claims, the Examiner’s conclusion of obviousness is without support. As such, the references cited fail to demonstrate the obviousness of Appellant’s invention.

- (iii) *The references fail to teach or suggest use of a collaborative planning tool.*

The present invention recites, *inter alia*, the use of a “collaborative planning tool” to facilitate the transfer of information during installation. The *Webber* and *Whipple* references, either alone or in combination, fail to teach or suggest these limitations of the claims.

The Examiner has admitted the references asserted, *Webber* and *Whipple*, fail to teach or suggest the use of a collaborative planning tool, but still maintains the rejection. Further, the Examiner’s citation to *Webber* fails to demonstrate the use of a collaborative planning tool, as the citations only disclose automated events occurring upon initiation of a pre-planned contract event. *See Webber* at col. 19, ll. 9-26 (disclosing example of automated supply chain activity using pre-approved contracts); col. 3, ll. 60-65 (failing to disclose any collaborative planning tool); col. 14, ll. 48-54 (failing to disclose any collaborative planning tool); col. 6, ll. 24-28 (discussing provision of a toolkit to draft contracts for use in the invention but failing to disclose how or if such a toolkit is collaborative planning tool, being that the automated environment of *Webber* does not utilize such a tool); col. 16, ll. 18-40 (disclosing the drafting and linking of pre-approved contracts, but failing to teach or disclose how that assists in collaborative planning); col. 20, ll. 10-15 (describing integration with other systems but failing to discuss collaborative planning between separate entities); Fig. 9 (disclosing unidirection separate entity transmissions to the central CAP system); col. 6, ll. 13-24 (introductory paragraph failing to disclose or suggest a collaborative planning tool); Fig. 2, item 260 (disclosing communications and activity platform generally); col. 14, ll. 4-11 (disclosing only separate functions of the CAP, but not a collaborative planning tool to facilitate planning between entities). Moreover, the Examiner does not rely on *Whipple* for teaching or suggesting use of a collaborative planning tool. These deficiencies were noted and argued to the Examiner in the Amendment and Response dated January 17, 2005.

In response, the Examiner admitted no collaborative planning tool was disclosed or taught, instead only relying on *Webber* and *Whipple* to the extent that both disclose “planning,” but failing to explain how the disclosure of planning is equivalent to the claim limitation of a “collaborative planning tool.” *See* Advisory Action dated February 17, 2005, continuation note. Moreover, while the Examiner may rely on *Webber* and *Whipple* in combination, there is no explanation as to how the combination of the references operates to obviate the claim limitation of use of a collaborative planning tool. The Examiner has failed to provide a rejection supported

by adequate reasoning, which is entirely inappropriate. Because the Examiner has admitted the non-obviousness of Appellant's invention through his failure to address substantive arguments, the Examiner has effectively concurred that Appellant's invention is patentable, and the rejection should be withdrawn.

2. There Is No Suggestion Or Motivation To Combine *Webber* and *Whipple*.

As detailed above, *Webber* read in light of *Whipple* fails to demonstrate that the claims as presented are obvious. Establishment of *prima facie* obviousness requires that references when read in combination must teach or suggest all the claim limitations. MPEP § 2142 at ¶ 3. "The mere fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness . . . unless the prior art also suggests the desirability of the combination." MPEP § 2143.01 at ¶ 9. In the present case, the combination of *Webber* and *Whipple* do not satisfy these premises.

The *Webber* and *Whipple* references individually do not suggest the desirability of their combination. *Webber* and *Whipple* fail to suggest such combination would be beneficial because of the orientation and purpose of the inventions disclosed. *Webber* discloses an invention intending to automate contract fulfillment via a supply chain framework, removing delay in the execution and negotiation of contracts by using pre-ratified contracts stored in the system. *See, e.g., Webber* at Abstract, line 1-2. Unlike *Webber*, *Whipple* discloses an invention that establishes a collaborative workspace in which separate entities can work on data packets or programs that are part of the same larger entity. *See Whipple* at Abstract. The *Whipple* reference is only relied upon for the disclosure of a framework manager that controls the collaborative workspace. This collaborative workspace is allegedly managed by a framework manager to manage version control of information packets placed in the collaborative workspace. *Id.* Such collaborative environment is not based on any intention to further automate; in fact, it teaches in the opposite direction because establishing such a collaborative environment moves toward inefficiencies resulting from a nonautomated workspace.

There is no suggestion to combine the two inventions as an obvious iteration. Initially, the two inventions are directed at very different situations. Even assuming that *Webber* is applicable to the presently claimed invention, *Webber's* automation is not obviously improved

through the addition of *Whipple*. Additionally, *Webber* requires no separate collaboration space or framework manager for its management or operation.

For the foregoing reasons, Applicant asserts that the prior art cited does not make obvious the claims as presented. Therefore, Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection be withdrawn, and a notice of an allowance be issued.

C. REJECTION OF DEPENDENT CLAIMS 73, 90, AND 107 PURSUANT TO 35 U.S.C. § 103

In addition to the arguments presented above, Appellant submits that dependent claims 73, 90, and 107 are allowable for additional reasons. Claims 73, 90, and 107 were rejected on the basis that *Webber* additionally discloses the limitation of a “framework manager using the network to facilitate milestone-based project planning between the matched service provider and the manufacturer.” See Office Action dated November 17, 2004 at 6. Appellant respectfully disagrees with this characterization as *Webber* fails to teach or suggest the use of milestone-based project planning.

As previously discussed, *Webber* discloses a method that automates a supply chain for the sale of goods between manufacturers, sellers, and other intermediate parties. See *Webber* at Fig. 4, col. 3, lines 37-38, col. 6, ll. 13-17. The purpose of the *Webber* invention is to integrate contracts among the separate entities participating in the supply chain such that fulfillment proceeds automatically with preratified contracts. See *id.*, at Abstract, lines 9-12, col. 6, lines 47-51. *Webber*, however, fails to disclose, teach or suggest the facilitation on the part of the framework manager of milestone-based project planning used by the individual entities.

Citations provided in the Office Action that purport to demonstrate the obviousness of this claim limitation fail to provide such support. Indeed, all citations are inapposite to providing such support because the citations do not provide the suggestion or teaching of use of milestone-based project planning by the entities, which is facilitated by the framework manager. See col. 17, lines 24-31 (discussing automation of contract fulfillment based upon a specific time schedule, but failing to provide any disclosure or suggestion as to how automation along a time schedule amounts to facilitating use of milestone-based project planning with the network-using entities); col. 19, lines 9-26 (again discussing automation of contract fulfillment without reference or suggestion to planning that is milestone-based); col. 3, lines 60-65 (describing object and advantage of invention, but again failing to discuss planning, only simultaneous operation

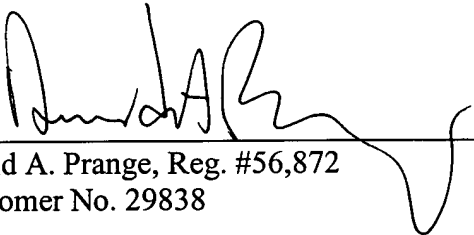
among several suppliers/sellers); and col. 14, lines 48-54 (in the context of the entire paragraph from lines 44-58, discussing encryption or security that is included in the communications link of the disclosed invention, but failing to disclose or teach or suggest use of milestone-based project planning or how planning fits within the invention disclosed). Such citations allegedly lend support to facilitating project planning used by the framework manager, but the plain language of the claim indicates this interpretation is improper; the claim clearly discloses that the planning is done between the two separate entities, and facilitated by the framework manager. Without adequate support for the assertion that *Webber* provides the additional disclosure of the limitations claimed in the present invention, rejection based upon *Webber* and *Whipple* is inappropriate, and the rejection based upon 35 U.S.C. § 103(a) should be withdrawn. The limitations of dependent claims 73, 90, and 107 provide allowable subject matter.

(8) CONCLUSION

Pending claims 70, 73-76, 82-87, 90-93, 99-104, 107-109, and 112-115 remain rejected under 35 U.S.C. § 103(a). Appellant respectfully asserts that the Examiner has not established a *prima facie* case of obviousness as demonstrated above and requests that the Board of Patent Appeals and Interferences reverse the Examiner's decision.

Should any additional fees be necessary, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference - 60021-334801).

Respectfully submitted,

By 
David A. Prange, Reg. #56,872
Customer No. 29838

Oppenheimer Wolff & Donnelly LLP
45 South Seventh Street, Suite 3300
Minneapolis, Minnesota 55402
Telephone: 612.607.7263
Facsimile: 612.607.7100
E-mail: DPrange@Oppenheimer.com

(A) CLAIMS APPENDIX

Claims 1-69 (canceled)

70. (Previously presented) A method for a framework manager to provide installation management in a network-based supply chain framework between at least two independent business entities such as service providers, vendors, resellers, manufacturers and the like, the method comprising:

causing a framework manager using a network to:

- (a) receive information via the network including information relating to a service provided by a service provider from the service provider;
- (b) receive information via the network including information relating to manufacturer offerings by a manufacturer from the manufacturer;
- (c) use and evaluate the information provided by the service provider via the network and the manufacturer to match the service to the offerings, evaluating factors that include cost and service provider requirements; and
- (d) use the service and manufacturer offerings information to manage installations through the use of a collaborative planning tool which facilitates the transfer of the information received from the service provider and the information received from the manufacturer.

71. (Cancelled)

72. (Cancelled)

73. (Previously presented) A method as recited in claim 70, further comprising the framework manager using the network to:

facilitate milestone-based project planning between the matched service provider and the manufacturer.

74. (Previously presented) A method as recited in claim 70, further comprising the framework manager using the network to:

display the manufacturer offerings of the matched manufacturer to the matched service provider using the network, and display the services provided by the matched service provider to the matched manufacturer.

75. (Previously presented) A method as recited in claim 70, wherein the information of the manufacturer includes information relating to the availability of the manufacturer offerings.

76. (Previously presented) A method as recited in claim 75 further comprising the framework manager using the network to:

notify the service provider of the availability of the manufacturer offerings that match a service installation.

77. (Cancelled)

78. (Cancelled)

79. (Cancelled)

80. (Cancelled)

81. (Cancelled)

82. (Previously presented) A method as recited in claim 70 for interacting with a client user in the network-based environment during installation management in order to enhance visibility, further comprising:

- (a) identifying a client user;
- (b) collecting information about the client user, wherein the information relates to the installation of a service;
- (c) building a profile of the client user based on the collected information;
- (d) managing a plurality of different contents;
- (e) analyzing the profile and the contents in order to match attributes of the profile of the user and attributes of the contents;
- (f) selecting the contents which have attributes that match the attributes of the profile of the client user; and

(g) delivering the selected contents to the client user.

83. (Previously presented) A method as recited in claim 82, further comprising analyzing the profile in real time.

84. (Previously presented) A method as recited in claim 82, further comprising:

identifying a time when the user last viewed the contents, and indicating portions of the contents that have been modified or added since the time when the user last viewed the contents.

85. (Previously presented) A method as recited in claim 82, further including the user by using a cookie, receiving user input, and digital certificates.

86. (Previously presented) A method as recited in claim 82, further comprising:

allowing the user to rate the contents.

87. (Previously presented) A system for a framework manager to provide installation management in a network-based supply chain framework between at least two independent business entities such as service providers, vendors, resellers, manufacturers and the like, the system comprising:

a network having a framework manager operating thereon to:

- (a) receive information via the network including information relating to a service provided by a service provider from the service provider;
- (b) receive information via the network including information relating to manufacturer offerings by a manufacturer from the manufacturer;
- (c) use and evaluate the information provided by the service provider via the network and the manufacturer to match the service to the offerings; and
- (d) use the service and manufacturer offerings information to manage installations through the use of a collaborative planning tool which facilitates the transfer of the information received from the service provider and the information received from the manufacturer.

88. (Cancelled)

89. (Cancelled)

90. (Previously presented) A system as recited in claim 87, further comprising the framework manager using the network to:

facilitate milestone-based project planning between the matched service provider and the manufacturer.

91. (Previously presented) A system as recited in claim 87, further comprising the framework manager using the network to:

display the manufacturer offerings of the matched manufacturer to the matched service provider using the network, and display the services provided by the matched service provider to the matched manufacturer.

92. (Previously presented) A system as recited in claim 87, wherein the information of the manufacturer includes information relating to the availability of the manufacturer offerings.

93. (Previously presented) A system as recited in claim 92 further comprising the framework manager using the network to:

notify the service provider of the availability of the manufacturer offerings that match a service installation.

94. (Cancelled)

95. (Cancelled)

96. (Cancelled)

97. (Cancelled)

98. (Cancelled)

99. (Previously presented) A system as recited in claim 87 for interacting with a client user in the network-based environment during installation management in order to enhance visibility, further comprising:

(a) identifying a client user;

- (b) collecting information about the client user, wherein the information relates to the installation of a service;
- (c) building a profile of the client user based on the collected information;
- (d) managing a plurality of different contents;
- (e) analyzing the profile and the contents in order to match attributes of the profile of the user and attributes of the contents;
- (f) selecting the contents which have attributes that match the attributes of the profile of the client user; and
- (g) delivering the selected contents to the client user.

100. (Previously presented) A system as recited in claim 99, further comprising analyzing the profile in real time.

101. (Previously presented) A system as recited in claim 99, further comprising:
identifying a time when the user last viewed the contents, and indicating portions of the contents that have been modified or added since the time when the user last viewed the contents.

102. (Previously presented) A system as recited in claim 99, further including the user by using a cookie, receiving user input, and digital certificates.

103. (Previously presented) A system as recited in claim 99, further comprising:
allowing the user to rate the contents.

104. (Previously presented) A computer program embodied on a computer readable medium for a framework manager to provide installation management in a network-based supply chain framework between at least two independent business entities such as service providers, vendors, resellers, manufacturers and the like, the computer program comprising:

code for causing a framework manager using a network to:

- (a) receive information via the network including information relating to a service provided by a service provider from the service provider;
- (b) receive information via the network including information relating to manufacturer offerings by a manufacturer from the manufacturer;

- (c) use and evaluate the information provided by the service provider via the network and the manufacturer to match the service to the offerings; and
- (d) use the service and manufacturer offerings information to manage installations through the use of a collaborative planning tool which facilitates the transfer of the information received from the service provider and the information received from the manufacturer.

105. (Cancelled)

106. (Cancelled)

107. (Previously presented) A computer program embodied on a computer readable medium as recited in claim 104, further comprising code for the framework manager using the network to:
facilitate milestone-based project planning between the matched service provider and the manufacturer.

108. (Previously presented) A computer program embodied on a computer readable medium as recited in claim 104, further comprising code for the framework manager using the network to:
display the manufacturer offerings of the matched manufacturer to the matched service provider using the network, and display the services provided by the matched service provider to the matched manufacturer.

109. (Previously presented) A computer program embodied on a computer readable medium as recited in claim 104 further comprising code for the framework manager using the network to:
notify the service provider of the availability of the manufacturer offerings that match a service installation.

110. (Cancelled)

111. (Cancelled)

112. (Previously presented) A computer program embodied on a computer readable medium as recited in claim 104 for interacting with a client user in the network-based environment during installation management in order to enhance visibility, further comprising:

- (a) code for identifying a client user;
- (b) code for collecting information about the client user, wherein the information relates to the installation of a service;
- (c) code for building a profile of the client user based on the collected information;
- (d) code for managing a plurality of different contents;
- (e) code for analyzing the profile and the contents in order to match attributes of the profile of the user and attributes of the contents;
- (f) code for selecting the contents which have attributes that match the attributes of the profile of the client user; and
- (g) code for delivering the selected contents to the client user.

113. (Previously presented) A computer program on a computer readable medium as recited in claim 112, further comprising code for analyzing the profile in real time.

114. (Previously presented) A computer program on a computer readable medium as recited in claim 112, further comprising code for:

identifying a time when the user last viewed the contents, and indicating portions of the contents that have been modified or added since the time when the user last viewed the contents.

115. (Previously presented) A computer program on a computer readable medium as recited in claim 112, further comprising code for:

allowing the user to rate the contents.

Serial No. 09/444,774

Appeal Brief

Page 29 of 30

(B) EVIDENCE APPENDIX

None

Serial No. 09/444,774

Appeal Brief

Page 30 of 30

(C) RELATED PROCEEDINGS APPENDIX

None